



# State of Tennessee

## PUBLIC CHAPTER NO. 711

SENATE BILL NO. 1723

By Bell

Substituted for: House Bill No. 1676

By Harry Brooks

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29, Part 2 and Title 49, Chapter 6, Part 22, relative to the state textbook and instructional materials quality commission.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-240(a), is amended by deleting subdivision (41).

SECTION 2. Tennessee Code Annotated, Section 4-29-241(a), is amended by inserting the following as a new subdivision:

( ) State textbook and instructional materials quality commission, created by § 49-6-2201;

SECTION 3. Tennessee Code Annotated, Section 49-6-2201, is amended by deleting the section and substituting instead the following:

(a)(1) There is created a state textbook and instructional materials quality commission composed of ten (10) members, nine (9) of whom shall be appointed as follows:

(A) The speaker of the senate shall appoint a:

(i) Director of schools; and

(ii) Teacher or instructional supervisor in the intermediate grades, grades four through eight (4-8);

(B) The speaker of the house of representatives shall appoint a:

(i) Director of schools; and

(ii) Teacher or instructional supervisor in the lower grades, grades kindergarten through three (K-3);

(C) The governor shall appoint a:

(i) Principal; and

(ii) Teacher or instructional supervisor in the upper grade subjects, grades nine through twelve (9-12);

(D)(i) The three (3) remaining members shall be citizens of this state who are not employed in the public kindergarten through grade twelve (K-12) educational system but who are knowledgeable of education issues in this state;

(ii) The citizen members listed in subdivision (a)(1)(D)(i) shall be appointed as follows:

(a) The governor shall appoint a person who resides in the western grand division of the state;

(b) The speaker of the senate shall appoint a person who resides in the eastern grand division of the state; and

(c) The speaker of the house of representatives shall appoint a person who resides in the middle grand division of the state; and

(E) If a member's initial qualification changes, the member shall be allowed to complete such member's term of appointment.

(2) The commissioner of education, or a deputy or assistant commissioner of education serving as the commissioner's designee, shall be an ex officio secretary of the commission, with the right to vote, and shall serve without additional compensation for such service.

(3) In making appointments pursuant to subdivisions (a)(1)(A)-(C), the appointing authorities shall strive to ensure that a proportionate number of persons are appointed to the commission from each grand division of the state.

(b)(1) Except as otherwise provided in subdivisions (b)(2) and (3), each appointed member shall be confirmed by joint resolution of the general assembly upon the recommendation of the education committee of the senate and the education administration and planning committee of the house of representatives in the legislative session immediately following appointment.

(2) If the general assembly is not in session at the time a member is appointed to fill a vacancy, the new appointee shall serve for the term appointed unless such appointment is not confirmed within ninety (90) calendar days after the general assembly next convenes in regular session following such appointment.

(3) If the general assembly is not in session when initial appointments are made, all initial appointments shall serve the terms prescribed pursuant to subdivision (d)(2), unless such appointments are not confirmed within ninety (90) days after the general assembly next convenes in regular session following such appointments.

(c) Except as provided in subsection (d) for initial appointments, the terms of the members of the commission shall be three (3) years.

(d)(1) The entire membership of the commission as comprised on June 30, 2018, shall be vacated on July 1, 2018, and new members shall be appointed and confirmed in accordance with subsections (a) and (b).

(2) In order to stagger the terms of the newly appointed commission members, initial appointments shall be made as follows:

(A) The persons appointed pursuant to subdivision (a)(1)(D)(ii) shall serve an initial term of one (1) year, which shall expire on June 30, 2019;

(B) The persons appointed pursuant to subdivisions (a)(1)(A)(i), (a)(1)(B)(i), and (a)(1)(C)(i) shall serve an initial term of two (2) years, which shall expire on June 30, 2020; and

(C) The persons appointed pursuant to subdivisions (a)(1)(A)(ii), (a)(1)(B)(ii), and (a)(1)(C)(ii) shall serve an initial term of three (3) years, which shall expire on June 30, 2021.

(e)(1) Following the expiration of members' initial terms as prescribed in subdivision (d)(2), all three-year terms shall begin on July 1 and terminate on June 30, three (3) years thereafter.

(2) In the event of a vacancy, the respective appointing authority shall fill the vacancy for the unexpired term.

(f) At the first regular meeting in each calendar year, the members of the commission shall elect a chair for a one-year term or until a successor is elected.

(g)(1) Before members of the commission begin to discharge their duties, they shall take and subscribe to the following oath: "I do hereby declare that I am not now directly or indirectly financially interested in, or employed by, any textbook or instructional materials publisher or agency, and that I will not become directly or indirectly financially interested in any of the proposed contracts, nor in any book or instructional materials, nor in any publishing concern handling or offering any books or other publications to the commission, of which I am a member, for listing and adoption, and I do hereby promise that I will act honestly, faithfully, and conscientiously, and in all respects will discharge my duty as a member of this commission to the best of my skill and ability."

(2) A violation of the oath taken pursuant to subdivision (g)(1) as determined by the department of education, in consultation with the commission, shall be grounds for the removal of a member by the respective appointing authority. A violation of the oath taken pursuant to subdivision (g)(1) may subject the commission member to criminal prosecution pursuant to applicable criminal statutes.

(h) The department of education shall assist the commission by providing mandatory training to newly appointed members on the textbook and instructional materials review process and the completion of their assigned tasks, including, but not limited to, the following:

(1) The delivery of quality textbook and instructional materials programs to the LEAs of the state, as fulfilled through the development of rules for the bidding and contracting of textbook and instructional materials programs;

(2) The adoption of physical standards and specifications that assure suitable durability of the textbooks, instructional materials, and supplemental materials;

(3) The review of programs bid against the academic standards approved by the state board of education;

(4) The establishment of contracts that guarantee the availability of adopted programs to all LEAs at the lowest price;

(5) The authority, responsibility, and duties of the commission, which include a review of the statutes and rules that govern the commission and the textbook and instructional materials review process;

(6) The time frame for the textbook and instructional materials review process;

(7) The process of appointing members to the advisory panels and expectations of the members of the panels;

(8) The First Amendment to the United States Constitution as it applies to the textbook and instructional materials adoption process; and

(9)(A) The goals of the textbook and instructional materials book review process. The commission shall not approve a textbook or instructional materials for adoption by LEAs unless the textbook or instructional materials:

(i) Conform to the standards for its subject area or grade level;

(ii) Are free of any clear, substantive, factual, or grammatical error; and

(iii) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government.

(B) Nothing in this part prohibits the use of or applies to supplemental instructional materials.

(i)(1) No member of the commission shall receive any gift, reward, present, or emolument from any author, publisher, or distributor of textbooks or instructional materials, except copies of textbooks and instructional materials offered for listing and adoption.

(2) No member or employee of the commission shall accept any employment as agent, attorney, subagent, employee, or representative of any author, publisher, or distributor of textbooks or instructional materials during the person's term of service on the commission, nor within twelve (12) months after the expiration of the person's term of office.

(3)(A) No author, publisher, agent, attorney, employee, or representative of any author, publisher, or distributor shall give any gift, reward, present, or emolument to any member of the commission nor make any offer of employment to a member of the commission during the member's term of service whereby the member is to become the agent, employee, attorney, or representative of the author or publisher.

(B) Any contract, expressed or implied, made by any person, firm, or corporation in violation of subdivision (i)(3)(A) is declared to be illegal and void and no recovery thereon shall be had.

(4) A commission member who knowingly violates subdivision (i)(1) or (i)(2) may be subject to criminal prosecution pursuant to applicable criminal statutes.

(j) Members of the commission shall not be compensated for their services but may be reimbursed for travel expenses in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(k)(1) Six (6) members of the commission shall constitute a quorum for the purpose of meeting and conducting business.

(2) No action of the commission shall be valid unless authorized by the affirmative vote of a majority of the members of the commission.

(3) The commission shall have two (2) regular meetings each school year to be held on the dates determined and announced by the commission. Notice of each regular meeting of the commission shall be posted on the department's website within three (3) full business days of the setting of the meeting dates.

(4) The commission may have as many special meetings as it deems necessary; provided, that in no case shall any member or members of this commission receive traveling expenses for more than three (3) special meetings in one (1) school year.

(5) Public notice of the call for the special meetings shall be made by the secretary of the commission at least ten (10) business days in advance of the date set for the special meeting and shall be posted within one (1) full business day of the call.

(6) All meetings shall be held in the office of the commissioner of education or at such place as designated by the commission.

(7) Meetings of the commission shall be made available for viewing by the public over the internet by streaming video accessible from the website of the department of education. Archived videos of the commission's meetings shall also be available to the public through the department's website.

(l)(1)(A) The commission, through its chair, may recruit and appoint an advisory panel of expert teachers and other experts in each subject area or grade level to advise the commission on textbook and instructional material selections.

(B) At least one (1) teacher shall be appointed to each advisory panel. Teachers appointed to the advisory panels shall possess a license to teach with an endorsement in the subject area or grade level for which they shall review textbooks or instructional materials.

(C) Experts, who are not public school teachers, may include college professors and credentialed subject matter specialists.

(D) All members of advisory panels must have a specific knowledge of and expertise in the content of the subject matter contained in the textbooks or instructional materials they review.

(2) The department of education shall assist the commission by providing mandatory training to members of advisory panels on the review process and the completion of their assigned tasks. The mandatory training shall include:

(A)(i) The requirements for performing a thorough review of all textbooks or instructional materials assigned to a member for review. The review shall include an examination as to whether the textbooks or instructional materials:

(a) Conform to the standards for their subject areas or grade levels;

(b) Are free of any clear, substantive, factual, or grammatical errors; and

(c) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and

(ii) Nothing in this part prohibits the use of or applies to supplemental instructional materials;

(B) The use of any forms developed by the commission for making a review; and

(C) The time frame for completing their tasks.

(3) The advisory panelists shall individually make their recommendations and shall not be convened except upon the call of the chair of the commission. If convened, the panelists may be reimbursed from funds available to the commission for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(4) The names of the reviewers, their positions, employers, and the panels on which they serve shall be identified on the department's website. The reviews of the members of an advisory panel shall be posted on the department's website without any information that would identify the reviewers.

(5) Each textbook or any instructional materials proposed for approval shall be reviewed by multiple members of the panel.

(6) Before issuing a recommendation on a textbook or on instructional materials, each advisory panelist shall review the public comments on the textbook or instructional materials posted on the department's website, pursuant to § 49-6-2203(d)(4). Each advisory panelist shall consider the public comments in making the panelist's recommendation.

(7) The commission shall evaluate all reviews submitted by the members of the advisory panel for each textbook or any instructional materials proposed for approval. The commission shall also review the public comments posted on the department's website, pursuant to § 49-6-2203(d)(4). If the reviews by the members of the advisory panel for a specific textbook or instructional materials do not lead to a clear recommendation as to the approval or rejection of the textbook or instructional materials or if the commission finds that the public comments indicate that further review of a textbook or any instructional materials is called for, then the commission shall conduct a public hearing as to whether the textbook or instructional materials should be approved. Notice of the public hearing shall be prominently posted on the home page of the department's website at least thirty (30) days prior to the meeting of the commission at which the textbook or instructional materials are to be considered.

(8) The commission is authorized to promulgate rules and regulations for the recruitment and appointment of members to the advisory panels and the process by which the members review their assigned texts.

SECTION 4. Tennessee Code Annotated, Section 49-6-2202, is amended by deleting the first sentence in subsection (a) and substituting instead the following:

It is the duty of the commission to prepare a list of standard editions of textbooks and instructional materials that cover a complete program of study for approval by the state board of education for use in the public schools of the state.

SECTION 5. Tennessee Code Annotated, Section 49-6-2202(f), is amended by deleting the subsection in its entirety.

SECTION 6. Tennessee Code Annotated, Section 49-6-2203, is amended by deleting the word "supplemental" wherever it appears and substituting instead the word "ancillary".

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1723

PASSED: March 29, 2018

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 12<sup>th</sup> day of April 2018

  
BILL HASLAM, GOVERNOR